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Agenda item 67

Right of peoples to self-determination

Report of the Third Committee

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I. Introduction

1. At its 2nd plenary meeting, on 17 September 2010, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-fifth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Third Committee, held a general discussion on the item jointly with item 66, entitled "Elimination of racism, racial discrimination, xenophobia and related intolerance", at its 36th, 37th and 40th meetings, on 1 and 3 November 2010, and considered proposals and took action on item 67 at its 43rd, 44th, 50th and 51st meetings, on 9, 11, 22 and 23 November. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/65/SR.36, 37, 40, 43, 44, 50 and 51).

3. For its consideration of the item, the Committee had before it the report of the Secretary-General on the right of peoples to self-determination (A/65/286) and a note by the Secretary-General transmitting the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/65/325).

4. At the 36th meeting, on 1 November, the Deputy Director of the Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/65/SR.36).

5. At the same meeting, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance made a presentation and engaged in a dialogue with the representatives of Switzerland, Norway, Pakistan, Kenya, Singapore, Denmark, the Russian Federation, the Syrian Arab Republic, Brazil, the United States of America, Maldives and Algeria and the observer for the European Union (see A/C.3/65/SR.36).

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6. Also at the same meeting, the Chair of the Committee on the Elimination of Racial Discrimination made a presentation and engaged in a dialogue with the representatives of Pakistan, Switzerland, Brazil, Norway and the Islamic Republic of Iran and the observer for the European Union (see A/C.3/65/SR.36).

7. Also at the 36th meeting, the Chair of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination made a presentation and engaged in a dialogue with the representatives of Cuba, Pakistan, China, the Russian Federation and South Africa (see A/C.3/65/SR.36).

II. Consideration of proposals

A. Draft resolution A/C.3/65/L.51

8. At the 43rd meeting, on 9 November, the representative of Pakistan, on behalf of Albania, Algeria, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Benin, Bolivia (Plurinational State of), Brunei Darussalam, Cameroon, the Central African Republic, China, the Comoros, the Congo, Côte d'Ivoire, Egypt, El Salvador, Eritrea, Grenada, Iran (Islamic Republic of), Jordan, Kenya, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Madagascar, Malaysia, Nicaragua, Nigeria, the Niger, Oman, Pakistan, Qatar, Saint Lucia, Saudi Arabia, Senegal, Seychelles, Singapore, Somalia, South Africa, the Sudan, Thailand, Togo, Tunisia, Uganda, the United Arab Emirates, Venezuela (Bolivarian Republic of) and Zimbabwe, introduced a draft resolution entitled "Universal realization of the right of peoples to self-determination" (A/C.3/65/L.51). Subsequently, the representatives of Burkina Faso, Ecuador, Ghana, Honduras, Jamaica, Maldives, Mali, Namibia, Sierra Leone, the United Republic of Tanzania and Zambia joined in sponsoring the draft resolution.

9. At its 44th meeting, on 11 November, the Committee adopted draft resolution A/C.3/65/L.51 (see para. 18, draft resolution I).

10. At the same meeting, the representatives of Belgium (on behalf of the European Union), the United States of America, Spain and the United Kingdom of Great Britain and Northern Ireland made statements after the adoption of the draft resolution (see A/C.3/65/SR.44).

B. Draft resolution A/C.3/65/L.52

11. At the 43rd meeting, on 9 November, the representative of Egypt, on behalf of Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Belize, Benin, Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Burundi, Cape Verde, the Central African Republic, China, the Comoros, the Congo, Côte d'Ivoire, Croatia, Cuba, Cyprus, the Democratic People's Republic of Korea, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Ghana, Greece, Grenada, Guinea-Bissau, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Jamaica, Jordan, Kenya, Kuwait, the Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, the Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Monaco, Montenegro, Morocco, Mozambique, Myanmar,

Namibia, Nicaragua, the Niger, Norway, Oman, Pakistan, Poland, Portugal, Qatar, the Republic of Moldova, Romania, the Russian Federation, Serbia, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Slovakia, Slovenia, Somalia, South Africa, Sri Lanka, the Sudan, Suriname, Swaziland, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Tunisia, Turkey, Uganda, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe and Palestine, introduced a draft resolution entitled "The right of the Palestinian people to self-determination" (A/C.3/65/L.52). Subsequently, Antigua and Barbuda, Barbados, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Costa Rica, Dominica, Gabon, the Gambia, Liberia, Liechtenstein, Lithuania, Malawi, Nigeria, Rwanda, San Marino, Spain, Sweden and Ukraine joined in sponsoring the draft resolution.

12. At its 50th meeting, the Committee adopted draft resolution A/C.3/65/L.52 by a recorded vote of 174 to 5, with 3 abstentions (see para. 18, draft resolution II). The voting was as follows:

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, Marshall Islands, Micronesia (Federated States of), Nauru, United States of America.

Abstaining:

Cameroon, Canada, Democratic Republic of the Congo.

13. Before the vote, a statement was made by the representative of Israel; statements were made after the vote by the representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland (see A/C.3/65/SR.50).

C. Draft resolution A/C.3/65/L.54 and Rev.1

14. At the 43rd meeting, on 9 November, the representative of Cuba, on behalf of Algeria, Angola, Belarus, Bolivia, China, the Comoros, Cuba, the Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Iran (Islamic Republic of), the Lao People's Democratic Republic, Lesotho, the Libyan Arab Jamahiriya, Malaysia, Myanmar, Namibia, Nicaragua, Pakistan, Peru, the Russian Federation, Saint Vincent and the Grenadines, Solomon Islands, South Africa, the Sudan, the Syrian Arab Republic, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe, introduced a draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/65/L.54) which read:

"*The General Assembly*,

"*Recalling* all of its previous resolutions on the subject, including resolution 64/151 of 18 December 2009, and Human Rights Council resolutions 15/12 of 30 September 2010 and 15/26 of 1 October 2010, as well as all resolutions adopted by the Commission on Human Rights in this regard,

"*Recalling also* all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa, as well as by the African Union,

"*Reaffirming* the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

"*Reaffirming also* that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

"*Reaffirming further* the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

"*Alarmed and concerned* at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

"*Deeply concerned* at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

"*Extremely alarmed and concerned* about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

"*Convinced* that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

"1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and expresses its appreciation for the work of the experts of the Working Group;

"2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

"3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

"4. *Urges once again* all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

"5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

"6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory

national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

"7. *Emphasizes* its utmost concern about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts, and notes that private military and security companies and their personnel are rarely held accountable for violations of human rights;

"8. *Calls upon* all States that have not yet done so to consider taking the action necessary to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

"9. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

"10. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

"11. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

"12. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

"13. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

"14. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session, including the elaboration and presentation of concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while

facing current and emergent threats posed by mercenaries or mercenary-related activities;

"15. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

"16. *Expresses its appreciation* to the Office of the High Commissioner for its support for the holding of the five regional governmental consultations on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

"17. *Notes with appreciation* the work of the Working Group on the elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security related services on the international market, which it carried out after country visits and through the process of regional consultations, and in consultation with academics and intergovernmental and non-governmental organizations, and also its work on the draft convention on the regulation, monitoring and oversight of private military and security companies for consideration by Member States;

"18. *Encourages* Member States to carefully consider the draft proposal of the Working Group for a possible new international legal instrument regulating private military and security companies and recommends to all Member States, including those confronted with the phenomenon of private military and security companies as contracting States, States of operations, home States or States whose nationals are employed to work for a private military and security company, to contribute to the Human Rights Council's open-ended Working Group tasked with elaborating a new convention regulating private military and security companies, taking into account the initial work done by the Working Group on the use of mercenaries;

"19. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

"20. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

"21. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-sixth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

"22. *Decides* to consider at its sixty-sixth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled 'Right of peoples to self-determination'."

15. At its 51st meeting, on 23 November, the Committee had before it a revised draft resolution entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (A/C.3/65/L.54/Rev.1) submitted by the sponsors of A/C.3/65/L.54 as well as the Gambia, India, Madagascar, Mali, Nigeria, Sri Lanka and Swaziland.

16. At the same meeting, the Committee adopted draft resolution A/C.3/65/L.54/Rev.1 by a recorded vote of 123 to 52, with 6 abstentions (see para. 18, draft resolution III). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Cape Verde, Chile, China, Comoros, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Colombia, Côte d'Ivoire, Fiji, Liberia, Mexico, Switzerland.

17. Before the vote, the representatives of Belgium (on behalf of the European Union and associated countries) and Switzerland made statements; after the vote, statements were made by the representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland (see A/C.3/65/SR.51).

III. Recommendations of the Third Committee

18. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[1] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixty-first[2] and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 64/149 of 18 December 2009,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, and recalling its resolution 60/1 of 16 September 2005, containing the 2005 World Summit Outcome, which, inter alia, upheld the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,[3]

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination

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[1] Resolution 2200 A (XXI), annex.

[2] See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

[3] A/65/286.

is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and with honour;

5. *Requests* the Human Rights Council to continue to give special attention to violations of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on the question to the General Assembly at its sixty-sixth session under the item entitled "Right of peoples to self-determination".

Draft resolution II
The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

Recalling, in this regard, its resolution 2625 (XXV) of 24 October 1970 entitled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations",

Bearing in mind the International Covenants on Human Rights,[1] the Universal Declaration of Human Rights,[2] the Declaration on the Granting of Independence to Colonial Countries and Peoples[3] and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,[4]

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[5]

Recalling also the United Nations Millennium Declaration,[6]

Recalling further the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,[7] and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right *erga omnes*,[8]

Recalling the conclusion of the Court, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,[9]

Expressing the urgent need for the resumption and accelerated advancement of negotiations within the Middle East peace process, based on the relevant United Nations resolutions, the Madrid terms of reference, including the principle of land for peace, the Arab Peace Initiative[10] and the Quartet road map,[11] and for the

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[1] Resolution 2200 A (XXI), annex.

[2] Resolution 217 A (III).

[3] Resolution 1514 (XV).

[4] A/CONF.157/24 (Part I), chap. III.

[5] See resolution 50/6.

[6] See resolution 55/2.

[7] See A/ES-10/273 and Corr.1; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

[8] See A/ES-10/273 and Corr.1, advisory opinion, para. 88; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

[9] See A/ES-10/273 and Corr.1, advisory opinion, para. 122; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

[10] A/56/1026-S/2002/932, annex II, resolution 14/221.

[11] S/2003/529, annex.

speedy achievement of a just, lasting and comprehensive peace settlement between the Palestinian and Israeli sides,

Stressing the need for respect for and preservation of the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory, including East Jerusalem, and recalling in this regard its resolution 58/292 of 6 May 2004,

Recalling its resolution 64/150 of 18 December 2009,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, including the right to their independent State of Palestine;

2. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

Draft resolution III
Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 64/151 of 18 December 2009, and Human Rights Council resolutions 15/12 of 30 September 2010 and 15/26 of 1 October 2010,[1] as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,[2] as well as by the African Union,[3]

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[4]

Welcoming the establishment of the open-ended intergovernmental Working Group of the Human Rights Council with the mandate of considering the possibility of elaborating an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies,

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

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[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 53A* (A/65/53/Add.1), chap. II.

[2] United Nations, *Treaty Series*, vol. 1490, No. 25573.

[3] On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.

[4] Resolution 2625 (XXV), annex.

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in some developing countries in various parts of the world, including in areas of armed conflict, and the threat they pose to the integrity of and respect for the constitutional order of the affected countries,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,[5] and expresses its appreciation for the work of the experts of the Working Group;

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the steps necessary and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training, protection or transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Emphasizes* its utmost concern about the impact of the activities of private military and security companies on the enjoyment of human rights, in particular when operating in armed conflicts, and notes that private military and

[5] See A/65/325.

security companies and their personnel are rarely held accountable for violations of human rights;

8. *Calls upon* all States that have not yet done so to consider taking the action necessary to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;[6]

9. *Welcomes* the cooperation extended by those countries that received a visit by the Working Group and the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

10. *Condemns* recent mercenary activities in developing countries in various parts of the world, in particular in areas of conflict, and the threat they pose to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

11. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

12. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

13. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

14. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session,[7] including the elaboration and presentation of concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

15. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

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[6] United Nations, *Treaty Series*, vol. 2163, No. 37789.

[7] See E/CN.4/2004/15, para. 47.

16. *Expresses its appreciation* to the Office of the High Commissioner for its support for the holding of the five regional governmental consultations on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

17. *Notes with appreciation* the work of the Working Group on the elaboration of concrete principles on the regulation of private companies offering military assistance, consultancy and other military security-related services on the international market, which it carried out after country visits and through the process of regional consultations, and in consultation with academics and intergovernmental and non-governmental organizations, and also takes note of its work on the draft convention on the regulation, monitoring and oversight of private military and security companies for consideration by Member States;

18. *Encourages* Member States to carefully consider the proposal of the Working Group for a possible new international legal instrument regulating private military and security companies,[8] and recommends to all Member States, including those confronted with the phenomenon of private military and security companies as contracting States, States of operations, home States or States whose nationals are employed to work for a private military and security company, to contribute to the work of the open-ended intergovernmental Working Group of the Human Rights Council with the mandate of considering the possibility of elaborating an international regulatory framework, including the option of elaborating a legally binding instrument on the regulation, monitoring and oversight of the activities of private military and security companies, taking into account the initial work done by the Working Group on the use of mercenaries;

19. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

20. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the assistance and support necessary for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

21. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-sixth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

22. *Decides* to consider at its sixty-sixth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

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[8] A/65/325, annex.